

9 FAM 41.21

FOREIGN OFFICIALS-GENERAL

*(CT:VISA-1360; 10-23-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.21 RELATED STATUTORY PROVISIONS

(CT:VISA-1360; 10-23-2009)

See INA 101(a)(15)(A); (8 U.S.C. 1101(a)(15)(A)); INA 101(a)(15)(C); (8 U.S.C. 1101(a)(15)(C)); INA 101(a)(15)(G); (8 U.S.C. 1101(a)(15)(G)); and INA 212(d)(8); (8 U.S.C. 1182(d)(8)).

INA 101(a)(15)(A)

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens

(A) (i) An ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) Upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) Upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

INA 101(a)(15)(C)

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens

(C) An alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and

foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

INA 101(a)(15)(G)

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens

(G)

- (i) A designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) 22 U.S.C. 288, note, accredited resident members of the staff of such representatives, and members of his or their immediate family;
- (ii) Other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;
- (iii) An alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;
- (iv) Officers, or employees of such international organizations, and the members of their immediate families;
- (v) Attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

INA 212(d)(8)

d. Temporary admission of nonimmigrants.

- (8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous

transit through the United States without regard to the provisions of this section except paragraphs (3)(A), (3)(B), (3)(C), and (7)(B) of subsection (a) of this section.

9 FAM 41.21 RELATED REGULATORY PROVISIONS

(CT:VISA-1360; 10-23-2009)

41.21 Foreign Officials—General.

(a) **Definitions.** In addition to pertinent INA definitions, the following definitions are applicable:

(1) **Accredited**, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), means an alien holding an official position, other than an honorary official position, with a government or international organization and possessing a travel document or other evidence of intention to enter or transit the United States to transact official business for that government or international organization.

(2) **Attendants**, as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in the definition of the NATO-7 visa symbol, means aliens paid from the public funds of a foreign government or from the funds of an international organization, accompanying or following to join the principal alien to whom a duty or service is owed.

(3) **Immediate family**, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), and in classification under the NATO-1 through NATO-5 visa symbols, means the spouse and unmarried sons and daughters, whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. Under the INA 101(a)(15)(A) and 101(a)(15)(G) visa classifications, “immediate family” also includes individuals who:

- (i) Are not members of some other household;
- (ii) Will reside regularly in the household of the principal alien;
- (iii) Are recognized as immediate family members of the principal alien by the sending Government as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport, or travel or other allowances; and
- (iv) Are individually authorized by the Department.

(4) **Servants and personal employees**, as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in classification under the NATO-7 visa symbol, means aliens employed in a domestic or personal capacity by a principal alien, who are paid from the private funds of the principal alien and seek to enter the United States solely for the purpose of such employment.

(b) **Exception to passport validity requirement for aliens in certain A, G, and NATO classes.** A nonimmigrant alien for whom the passport requirement of INA 212(a)(7)(B)(i)(I) has not been waived and who is within one of the classes:

- (1) Described in INA 101(a)(15)(A)(i) and (ii); or
- (2) Described in INA 101(a)(15)(G)(i), (ii), (iii), and (iv); or
- (3) NATO-1, NATO-2, NATO-3, NATO-4, or NATO-6 may present a passport which is valid only for a sufficient period to enable the alien to apply for admission at a port of entry prior to its expiration.

(c) **Exception to passport validity requirement for foreign government officials in transit.** An alien classified C-3 under INA 212(d)(8) needs to present only a valid unexpired visa and a travel document which is valid for entry into a foreign country for at least 30 days from the date of application for admission into the United States.

(d) **Grounds for refusal of visas applicable to certain A, C, G, and NATO classes.** (1) An A-1 or A-2 visa may not be issued to an alien the Department has determined to be persona non grata.

(2) Only the provisions of INA 212(a) cited below apply to the indicated classes of nonimmigrant visa applicants:

- (i) Class A-1: INA 212(a) (3)(A), (3)(B), and (3)(C);
- (ii) Class A-2: INA 212(a) (3)(A), (3)(B), and (3)(C);
- (iii) Classes C-2 and C-3: INA 212(a) (3)(A), (3)(B), (3)(C), and (7)(B);
- (iv) Classes G-1, G-2, G-3, and G-4: INA 212(a) (3)(A), (3)(B), and (3)(C);
- (v) Classes NATO-1, NATO-2, NATO-3, NATO-4, and NATO-6: INA 212(a) (3)(A), (3)(B), and (3)(C);

(3) An alien within class A-3 or G-5 is subject to all grounds of refusal specified in INA 212 which are applicable to nonimmigrants in general.

(4) Notwithstanding the provisions of Section 5(a) and consistent with Section 5(f)(2) of the Tom Lantos Block Burmese JADE (Junta's Anti-

Democratic Efforts) Act of 2008, Public Law 110–286, visas may be issued to visa applicants who are otherwise ineligible for a visa to travel to the United States under section 5(a)(1) of the Act:

- (i) To permit the United States and Burma to operate their diplomatic missions, and to permit the United States to conduct other official United States Government business in Burma;
- (ii) To permit the United States to comply with the United Nations Headquarters Agreement and other applicable international agreements.

(52 FR 42597, Nov. 5, 1987; 53 FR 9111, Mar. 21, 1988, as amended at 56 FR 30428, July 2, 1991; 73 FR 56729, Sept. 30, 2008; 74 FR 36113, July 22, 2009)